

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DIAMOND CRAFT,

Petitioner,

vs.

Civ. Case No. 06-CV-14380
Crim. Case No. 02-CR-80143-01
HON. GEORGE CARAM STEEH

UNITED STATES OF AMERICA,

Respondent.

ORDER TRANSFERRING CASE TO COURT OF APPEALS

On October 5, 2006, Diamond Craft filed a petition under 28 U.S.C. § 2255 for relief from sentence. Craft's prior § 2255 petition was dismissed on the merits by this court on November 22, 2005. See Craft v. United States, No. 05-CV-74177, 02-CR-80143-01, 2005 WL 3143267 (E.D. Mich. Nov. 22, 2005)¹. The government filed a timely response to the instant petition on November 30, 2006.

As argued by the government, the Antiterrorism and Effective Death Penalty Act of 1996 amended 28 U.S.C. §§ 2244, 2253, and 2254 governing habeas proceedings in federal court. As a result of these amendments, an inmate seeking to file a second or successive petition under § 2255 must first file a motion with the Sixth Circuit Court of Appeals requesting permission to file the petition. In re Hanserd, 123 F.3d 922, 934 (6th Cir. 1997). Unless the Sixth Circuit has approved the filing of a second or successive §

¹ Craft's conviction and sentence were affirmed on direct appeal. See Craft v. United States, 150 Fed. Appx. 413 (6th Cir. Sept. 26, 2005) (unpublished).

2255 petition, a federal district court must transfer the petition to the Sixth Circuit due to lack of jurisdiction. See Ferrazza v. Tessmer, 36 F. Supp. 2d 965, 971 (E.D. Mich. 1999).

Craft has not obtained authorization to file a second § 2255 petition. See 28 U.S.C. § 2244(b)(3)(A). Accordingly,

IT IS ORDERED that the Clerk of the Court shall transfer this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631 and In re Sims, 111 F.3d 45, 47 (6th Cir. 1997).

SO ORDERED.

Dated: December 20, 2006

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on December 20, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk